

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

IN RE:	§	
	§	
SIDHARTHA & SUNITA MUKHERJEE,	§	CASE NO. 23-41386-BTR-7
xxx-xx-1040; xxx-xx-5871	§	
3905 Kite Meadow Drive	§	
Plano, TX 75074	§	CHAPTER 7
DEBTORS.	§	

**MOTION OF MERCEDES-BENZ FINANCIAL SERVICES USA LLC FOR RELIEF
FROM AUTOMATIC STAY AS TO A 2020 MERCEDES-BENZ GLC43W4,
WAIVER OF SECTION 362(e) HEARING REQUIREMENT AND
REQUEST FOR HEARING IN PLANO, TEXAS**

YOUR RIGHTS MAY BE AFFECTED BY THE RELIEF SOUGHT IN THIS PLEADING. YOU SHOULD READ THIS PLEADING CAREFULLY AND DISCUSS IT WITH YOUR ATTORNEY, IF YOU HAVE ONE IN THIS BANKRUPTCY CASE. IF YOU OPPOSE THE RELIEF SOUGHT BY THIS PLEADING, YOU MUST FILE A WRITTEN OBJECTION, EXPLAINING THE FACTUAL AND/OR LEGAL BASIS FOR OPPOSING THE RELIEF.

NO HEARING WILL BE CONDUCTED ON THIS MOTION UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE SHOWN IN THE CERTIFICATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF NO OBJECTION IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING WITH APPROPRIATE NOTICE. IF YOU FAIL TO APPEAR AT THE HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

NOW COMES, Mercedes-Benz Financial Services USA LLC ("Mercedes-Benz"), Movant herein, complaining of Sidhartha & Sunita Mukherjee ("Debtors") and Christopher Moser ("Trustee"), Respondents herein, and for cause of action would respectfully show the Court as follows:

1. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 1334 and 157 and 11 U.S.C. § 362. This is a core proceeding.

2. Mercedes-Benz is a secured creditor of the above-referenced Debtors by virtue of a security interest in a 2020 Mercedes-Benz GLC43W4, Vehicle Identification Number WDC0G6EB9LF739694 ("Collateral"). Said debt and security interest are evidenced by the Vehicle Retail Installment Contract and Certificate of Title, attached hereto and incorporated herein fully by reference.

3. Debtors' bankruptcy case has been converted to a Chapter 7 proceeding.

4. As of November 2, 2023, Debtors herein were indebted to Mercedes-Benz in the net contractual balance of \$42,191.91. As of November 2, 2023, Debtors' account was due for the June 8, 2023 payment and all payments due since that time. The monthly payments are \$1,118.59 each. Total arrears as of November 2, 2023 were \$6,539.24.

5. Mercedes-Benz does not have proof of and maintenance of full coverage insurance on the collateral, listing Mercedes-Benz as loss-payee and otherwise acceptable to Mercedes-Benz on the policy. If the Collateral is uninsured, it constitutes cause to terminate the automatic stay.

6. But for the automatic stay, Mercedes-Benz could and would foreclose its lien on the Collateral in which it holds a security interest.

7. Mercedes-Benz does not have, and neither Debtors nor the Trustee are able to offer, adequate protection of Mercedes-Benz's interest in the Collateral securing Mercedes-Benz's debt.

WHEREFORE, PREMISES CONSIDERED, Mercedes-Benz Financial Services USA LLC prays for:

1. An Order of this Court granting Mercedes-Benz relief from the automatic stay imposed pursuant to 11 U.S.C. § 362;

2. An Order of this Court authorizing Mercedes-Benz to take immediate possession of the Collateral which is the subject of this Motion and foreclose its lien in the Collateral;

3. In the alternative, an Order of this Court requiring Debtors to provide Mercedes-Benz with adequate protection of its interest in the Collateral; and

4. For such other and further relief, both general and specific, to which Mercedes-Benz may show itself justly entitled.

Respectfully submitted,

/s/ Stephen G. Wilcox

Stephen G. Wilcox

State Bar No. 21454300

WILCOX LAW, PLLC

P.O. Box 201849

Arlington, TX 76006
(817) 870-1694 Telephone
swilcox@wilcoxlaw.net
ATTORNEY FOR MERCEDES-BENZ
FINANCIAL SERVICES USA LLC

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Motion for Relief from the Automatic Stay was served by **FIRST CLASS MAIL, POSTAGE PREPAID** on:

Sidhartha & Sunita Mukherjee
3905 Kite Meadow Drive
Plano, TX 75074

Attn: Ally Capital Department
AIS Portfolio Services, LLC
Account: XXXXXXXXX6768
4515 N Santa Fe Ave. Dept. APS
Oklahoma City, OK 73118

and by **ELECTRONIC FILING** on:

James Morrison
8701 W. Bedford Euless Rd., Suite 510
Hurst, TX 75074

Christopher Moser
2001 Bryan St., Suite 1800
Dallas, TX 75201

U.S. Trustee
110 College, Suite 300
Tyler, TX 75702

on November 8, 2023.

/s/ Stephen G. Wilcox
Stephen G. Wilcox

SUMMARY OF EXHIBITS

1. Vehicle Retail Instalment Contract dated September 24, 2020 on a 2020 Mercedes-Benz GLC43W4, Vehicle Identification Number WDC0G6EB9LF739694.
2. Certificate of Title on a 2020 Mercedes-Benz GLC43W4, Vehicle Identification Number WDC0G6EB9LF739694.
3. Affidavit of Sofia Taylor.

*Copies of Exhibits are available by written request to:

Kim Raudry
Wilcox Law, PLLC
P. O. Box 201849
Arlington, TX 76006
kraudry@wilcoxlaw.net

8323-00672-573632